

AMENDED IN ASSEMBLY MARCH 9, 2006

AMENDED IN SENATE JANUARY 9, 2006

AMENDED IN SENATE JANUARY 4, 2006

**SENATE BILL**

**No. 1052**

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**Introduced by Senator Kehoe**  
**(Coauthor: Senator Aanestad)**  
*(Coauthor: Assembly Member Keene)*

February 22, 2005

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An act to amend Section 66452.5 of the Government Code, relating to subdivisions.

LEGISLATIVE COUNSEL'S DIGEST

SB 1052, as amended, Kehoe. Subdivisions: appeals.

The Subdivision Map Act authorizes a subdivider, or any tenant of the property, in the case of a proposed conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, to file an appeal from any action with respect to a tentative map to the appeal board established by local ordinance or, if none, to the legislative body. The act also requires that the appeal be filed with the clerk of the appeal board, or if there is none, with the clerk of the legislative body within 10 days after the action of the advisory agency from which the appeal is being taken and requires the appeal board or the legislative body to set the matter for hearing within 30 days after the date of filing the appeal.

The act also applies these provisions to an appeal from the action of the appeal board to the legislative body and to an appeal from any interested person adversely affected by a decision of the advisory

agency or the appeal board concerning any decision of the advisory agency or appeal board.

This bill would recast these provisions to provide that the hearing be held within 30 days after the date of a request filed by the subdivider or the appellant and would instead require, for appeals to the legislative body, that if there is no regular meeting of the legislative body within the next 30 days for which specified notice can be given, the appeal may be heard at the next regular meeting for which the specified notice can be given, or within 60 days from the date of the receipt of the request, whichever period is shorter.

The bill would also restate the requirement that each decision made pursuant to these provisions be supported by specified findings and would also make other conforming changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 66452.5 of the Government Code is  
2 amended to read:  
3 66452.5. (a) (1) The subdivider, or any tenant of the subject  
4 property, in the case of a proposed conversion of residential real  
5 property to a condominium project, community apartment  
6 project, or stock cooperative project, may appeal from any action  
7 of the advisory agency with respect to a tentative map to the  
8 appeal board established by local ordinance or, if none, to the  
9 legislative body.  
10 (2) The appeal shall be filed with the clerk of the appeal board,  
11 or if there is none, with the clerk of the legislative body within 10  
12 days after the action of the advisory agency from which the  
13 appeal is being taken.  
14 (3) Upon the filing of an appeal, the appeal board or legislative  
15 body shall set the matter for hearing. The hearing shall be held  
16 within 30 days after the date of a request filed by the subdivider  
17 or the appellant. If there is no regular meeting of the legislative  
18 body within the next 30 days for which notice can be given  
19 pursuant to Section 66451.3, the appeal may be heard at the next  
20 regular meeting for which notice can be given, or within 60 days  
21 from the date of the receipt of the request, whichever period is  
22 shorter. Within 10 days following the conclusion of the hearing,

1 the appeal board or legislative body shall render its decision on  
2 the appeal.

3 (b) (1) The subdivider, any tenant of the subject property, in  
4 the case of a conversion of residential real property to a  
5 condominium project, community apartment project, or stock  
6 cooperative project, or the advisory agency may appeal from the  
7 action of the appeal board to the legislative body. The appeal  
8 shall be filed in writing with the clerk of the legislative body  
9 within 10 days after the action of the appeal board from which  
10 the appeal is being taken.

11 (2) After the filing of an appeal, the legislative body shall set  
12 the matter for hearing. The hearing shall be held within 30 days  
13 after the date of the request filed by the subdivider or the  
14 appellant. If there is no regular meeting of the legislative body  
15 within the next 30 days for which notice can be given pursuant to  
16 Section 66451.3, the appeal may be heard at the next regular  
17 meeting for which notice can be given, or within 60 days from  
18 the date of the receipt of the request, whichever period is shorter.  
19 Within 10 days following the conclusion of the hearing, the  
20 legislative body shall render its decision on the appeal.

21 (c) (1) If there is an appeal board and it fails to act upon an  
22 appeal within the time limit specified in this chapter, the decision  
23 from which the appeal was taken shall be deemed affirmed and  
24 an appeal therefrom may thereupon be taken to the legislative  
25 body as provided in subdivision (b) of this section. If no further  
26 appeal is taken, the tentative map, insofar as it complies with  
27 applicable requirements of this division and any local ordinance,  
28 shall be deemed approved or conditionally approved as last  
29 approved or conditionally approved by the advisory agency, and  
30 it shall be the duty of the clerk of the legislative body to certify  
31 or state that approval, or if the advisory agency is one which is  
32 not authorized by local ordinance to approve, conditionally  
33 approve, or disapprove the tentative map, the advisory agency  
34 shall submit its report to the legislative body as if no appeal had  
35 been taken.

36 (2) If the legislative body fails to act upon an appeal within the  
37 time limit specified in this chapter, the tentative map, insofar as it  
38 complies with applicable requirements of this division and any  
39 local ordinance, shall be deemed to be approved or conditionally  
40 approved as last approved or conditionally approved, and it shall

1 be the duty of the clerk of the legislative body to certify or state  
2 that approval.

3 (d) (1) Any interested person adversely affected by a decision  
4 of the advisory agency or appeal board may file an appeal with  
5 the legislative body concerning any decision of the advisory  
6 agency or appeal board. The appeal shall be filed with the clerk  
7 of the legislative body within 10 days after the action of the  
8 advisory agency or appeal board that is the subject of the appeal.  
9 Upon the filing of the appeal, the legislative body shall set the  
10 matter for hearing. The hearing shall be held within 30 days after  
11 the date of a request filed by the subdivider or the appellant. If  
12 there is no regular meeting of the legislative body within the next  
13 30 days for which notice can be given pursuant to Section  
14 66451.3, the appeal may be heard at the next regular meeting for  
15 which notice can be given, or within 60 days from the date of the  
16 receipt of the request, whichever period is shorter. The hearing  
17 may be a public hearing for which notice shall be given in the  
18 time and manner provided.

19 (2) Upon conclusion of the hearing, the legislative body shall,  
20 within 10 days, declare its findings based upon the testimony and  
21 documents produced before it or before the advisory board or the  
22 appeal board. The legislative body may sustain, modify, reject, or  
23 overrule any recommendations or rulings of the advisory board  
24 or the appeal board and may make any findings that are not  
25 inconsistent with the provisions of this chapter or any local  
26 ordinance adopted pursuant to this chapter.

27 (e) Each decision made pursuant to this section shall be  
28 supported by findings that are consistent with the provisions of  
29 this division and any local ordinance adopted pursuant to this  
30 division.

31 (f) Notice of each hearing provided for in this section shall be  
32 sent by United States mail to each tenant of the subject property,  
33 in the case of a conversion of residential real property to a  
34 condominium project, community apartment project, or stock  
35 cooperative project, at least three days prior to the hearing. The  
36 notice requirement of this subdivision shall be deemed satisfied if  
37 the notice complies with the legal requirements for service by  
38 mail. Pursuant to Section 66451.2, fees may be collected from

- 1 the subdivider or from persons appealing or filing an appeal for
- 2 expenses incurred ~~under~~ *pursuant to* this section.

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